



## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-864]

#### **Certain Corrosion-Resistant Steel Products from India: Notice of Court Decision Not in Harmony with the Results of Countervailing Duty Administrative Review; Notice of Amended Final Results**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On April 29, 2021, the U.S. Court of International Trade (CIT) issued its final judgment in *Uttam Galva Steels Limited v. United States*, Court no. 19-00044, sustaining the Department of Commerce (Commerce)'s second remand results pertaining to the administrative review of the countervailing duty (CVD) order on certain corrosion-resistant steel products (CORE) from India covering the period November 6, 2015, through December 31, 2016.

Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the countervailable subsidy rate assigned to Uttam Galva Steels Limited/Uttam Value Steels Limited/Uttam Galva Metallics Limited (collectively, Uttam Galva).

**DATES:** Applicable May 9, 2021.

**FOR FURTHER INFORMATION CONTACT:** Justin Neuman, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0486.

#### **SUPPLEMENTARY INFORMATION:**

Background

On March 25, 2019, Commerce published its *Final Results* in the 2015-2016 CVD administrative review of CORE from India.<sup>1</sup> Commerce found that Uttam Galva failed to properly report its affiliation with Lloyds Steels Industry Limited (LSIL).<sup>2</sup> Therefore, Commerce applied total adverse facts available (AFA) pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act) to Uttam Galva.<sup>3</sup> Commerce constructed an AFA rate by selecting the highest calculated rate for the identical, or a similar/comparable, program for each of the subsidy programs under review.<sup>4</sup>

Uttam Galva appealed Commerce's *Final Results* with respect to the application of AFA and Commerce's construction of the total AFA rate. On February 6, 2020, the CIT remanded the *Final Results* to Commerce, sustaining Commerce's decision to apply AFA to Uttam Galva for failing to disclose its affiliation with LSIL and granting Commerce's request for a voluntary remand to reconsider the rate assigned to the Market Access Initiative Program and four additional programs.<sup>5</sup> The CIT directed Commerce to consider Uttam Galva's argument that 20 other subsidy programs should not be included in the total AFA rate and to further explain its rate selections.<sup>6</sup>

In its First Remand Redetermination, issued in May 2020, Commerce adjusted Uttam Galva's total AFA rate to reflect the modifications for the five programs that were the subject of its voluntary remand request and continued to find that the other 20 programs were properly included in the AFA rate.<sup>7</sup> Specifically, Commerce modified the AFA rate for the Market Access Initiative program from 16.63 percent to 6.06 percent and removed the following programs from Uttam Galva's total AFA rate: (1) the Provision of Hot-Rolled Steel for Less

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<sup>1</sup> See *Certain Corrosion-Resistant Steel Products from India: Final Results of Countervailing Duty Administrative Review; 2015-2016*, 84 FR 11053 (March 25, 2019) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

<sup>2</sup> See *Final Results* IDM at Comment 4.

<sup>3</sup> *Id.* Commerce found, as AFA, that LSIL was cross-owned with Uttam Galva.

<sup>4</sup> *Id.*

<sup>5</sup> See *Uttam Galva Steels Limited v. United States*, Court No. 19-00044, Slip Op. 20-15 (CIT February 6, 2020).

<sup>6</sup> *Id.* at 13-14.

<sup>7</sup> See *Final Results of Redetermination Pursuant to Uttam Galva Steels Limited v. United States*, Court No. 19-00044, Slip Op. 20-15 (CIT February 6, 2020), dated May 6, 2020 (First Remand Redetermination) at 27.

Than Adequate Remuneration; (2) State Government of Uttar Pradesh (SGUP) Exemption from Entry Tax for the Iron and Steel Industry; (3) SGUP Long-Term Interest Free Loans Equivalent to the Amount of Value-Added Tax and Central Sales Tax Paid; and (4) SGUP's Interest Free Loans under the SGUP Development Promotion Rules 2003.

The CIT remanded for a second time, sustaining Commerce's determination to include the 20 disputed programs in Uttam Galva's AFA rate calculation, and instructing Commerce to further explain its decision to apply total AFA to Uttam Galva in this review for Uttam Galva's failure to properly report its affiliation with LSIL when Commerce applied partial AFA to respondent JSW Steel Limited (JSW) in the investigation of this proceeding for JSW's failure to properly report an affiliate.<sup>8</sup>

In its Second Remand Redetermination, issued in December 2020, Commerce explained that application of total AFA to Uttam Galva is warranted in this review and consistent with Commerce's total AFA practice.<sup>9</sup> The application of partial AFA to JSW was based on a distinct set of facts and, although the application of AFA to JSW was similarly based on the company respondent's failure to properly report an affiliated entity, it is not determinative of the treatment of Uttam Galva in this segment because the circumstances surrounding the AFA determinations for each company were different.<sup>10</sup> The CIT sustained Commerce's final redetermination.<sup>11</sup>

#### Timken Notice

In its decision in *Timken*,<sup>12</sup> as clarified by *Diamond Sawblades*,<sup>13</sup> the Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's April

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<sup>8</sup> See *Uttam Galva Steels Limited v. United States*, Court No. 19-00044, Slip Op. 20-151 (CIT October 29, 2020).

<sup>9</sup> See Final Results of Redetermination Pursuant to *Uttam Galva Steels Limited v. United States*, Court No. 19-00044, Slip Op. 20-151 (CIT October 29, 2020), dated December 22, 2020 (Second Remand Redetermination).

<sup>10</sup> *Id.*

<sup>11</sup> See *Uttam Galva Steels Limited v. United States*, Court No. 19-00044, Slip Op. 21-48 (CIT April 29, 2021).

<sup>12</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>13</sup> See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

29, 2021, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

#### Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Uttam Galva as follows:

<b>Manufacturer/Exporter</b>	<b>Subsidy rate (percent <i>ad valorem</i>)</b>
Uttam Galva Steels Limited/Uttam Value Steels Limited/Uttam Galva Metallics Limited/Lloyds Steels Industry Limited	554.26

#### Cash Deposit Requirements

Commerce will issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP).

#### Liquidation of Suspended Entries

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess countervailing duties on unliquidated entries of subject merchandise produced and/or exported by Uttam Galva at the subsidy rate listed above in accordance with 19 CFR 351.212(b).

#### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: May 6, 2021.

James Maeder,  
Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.